

VIA ECF/EMAIL

Honorable Judge Gregory Woods
United States District Court
Southern District of New York
500 Pearl Street, Room 12C
New York, NY 10007

Re: *Kumaran et al vs. ADM Investor Services* 1:20-Cv-03873-GHW-SDA

Dear Hon Judge Woods,

As pertains to the Court's Order for teleconference on May 25, 2022, Plaintiffs respectfully notify the Court, that they have been able to locate and reach some immediate family members of Mr. Kostus and were informed over the weekend that the reason for Mr. Kostus absence, is that Corporate Plaintiffs' counsel was admitted to Hackensack Medical University Hospital, and had not yet been discharged. I was also advised that he did not have his phone or electronic devices while admitted.

Corporate Plaintiffs do not wish for either them, or their counsel to be held in default if Mr. Kostus is still in the hospital at the time of the proposed conference. My understanding from his immediate family, is that Mr. Kostus is no longer travelling to Mexico because of these recent medical developments. I have made inquiries if it is possible for me to be able to reach him directly and should know more in the next two days.

In addition, I advised his family that it was imperative he contact or communicate with the Court. I am expecting to speak to them soon. The Corporate Plaintiffs do not discharge Mr. Kostus from his services and neither does Mr. Kostus move to withdraw,. I understand there was a medical incident that occurred requiring his immediate hospitalization, which prevented him from reaching out.

My understanding from his family, is that he has every intention of continuing in this case, and is anticipated to be discharged soon, hopefully this week.

I am aware only that in February 2022 (prior to being retained) Mr. Kostus advised me he had a one-time sports injury while running, where he had a trip and fall, and hit his head. Before retaining him, I inquired several times if it was going to be problem and he stated it was not. Accordingly, as seen in Exhibit 1, Corporate Plaintiffs made sure there was specific language in the retainer that he represents and warrants he has no health issues, and in the event of his unavailability he has to provide substitute counsel. (See attached). I do know that Kostus is actively in the gym, and engages in other physical activities. Mr. Kostus did not advise me of any ongoing problems related to that injury, and was available on a frequent basis for the filing of the prior briefs and up to May 11 and reported no ongoing concern to his injury. I do know he had periodic follow up appointments related to the foregoing. I am not aware of the present issue, but my brief understanding is it may have been a side effect to a medication or potentially another sports related injury.

I have advised his family that there is a pending Court deadline and he must appear on May 25, 2022 and they are not sure if he will be discharged by this date. I also advised them that he missed several other Court deadlines and they stated they thought there was a second attorney on the case. I notified them that the other lawyer filed a motion to withdraw. To that end, since counsel in the immediate are in the hospital, I am notifying the Court of the medical issue that has caused Mr. Kostus to not appear in the last week.

Mr. Kostus does expect to return to the office this week as I understand.

I also alert the Court, that Mr. Kostus sports activities and injuries, should not be in any way meant to infer that Kostus does not stand behind the legal arguments presented to the Court, on papers he signed and filed, and the Corporate Plaintiffs assert, that Kostus' sports accidents are of no fault of Corporate Plaintiffs. They are trying to remedy Kostus' absences, and with consent and cooperation of Mr. Kostus will also be looking for Co-Counsel as they did with Mr. MacMull – to work alongside Mr. Kosuts on a suitable billing arrangement. Having spoken to two lawfirms, they stated they could not review the dockets so quickly by Wednesday, and would request thirty (30) days to review the volume of materials. In the meantime, Mr. Kostus is anticipated to return this week.

My understanding is Mr. Kostus has no intention of withdrawing and Corporate Plaintiffs have no intention of discharging him. Finally Mr. Kostus is willing to argue the briefs he filed, stand behind his work product as are Corporate Plaintiffs. The Court should not infer anything related to this sports incident as anyway regarding Mr. Kostus or Corporate Plaintiffs not being willing to argue and stand behind the merits and law of the case. It is of course unfortunate timing, and Corporate Plaintiffs had no idea until the filing of this letter, what had happened but did correctly indicate to the Court that they were in frequent contact with David, working quite well up until or prior to May 11 and had no indication of a problem in the collaboration. I of course wish David a quick recovery, and I understand he is expected to be returning shortly.

I will of course continue to look for Co-Counsel, and the feedback I have received, as stated above, from two law firms, is that they will need to at least 30 days to review these dockets, prior to discussing terms. Since Kostus is not withdrawing, that process of searching for Co-Counsel can continue simultaneously and should not need to cause a stay to these proceedings.

Respectfully submitted,
//SSK//
Samantha Siva Kumaran
Individual Plaintiff